

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

PAUL LEONARD AND JULIE LEONARD

PLAINTIFFS

V.

CIVIL ACTION NO. 1:05CV475 LTS-RHW

NATIONWIDE MUTUAL INSURANCE COMPANY

DEFENDANT

ORDER SUSTAINING IN PART AND OVERRULING IN PART
MOTION IN LIMINE CONCERNING NATIONWIDE'S
"HURRICANE COVERAGE AND DEDUCTIBLE PROVISION ENDORSEMENT"
and NATIONWIDE'S NOTICE OF "INCREASED WIND/HAIL DEDUCTIBLE"

The Court has before it Nationwide's motion in limine to exclude from evidence two documents: the 2005 "Hurricane Coverage and Deductible Provision Endorsement" and the 1999 notice of Nationwide's "Increased Wind/Hail Deductible." Both of these documents were prepared by Nationwide and sent to policyholders, including the plaintiffs.

When the plaintiffs received the 1999 notice, they opted to pay a higher insurance premium in order to keep their deductible for wind damage at its then current level of \$500, rather than increasing their deductible to 2% of the covered loss at their then current premium. Because this notice had an effect on the price plaintiffs paid for their Nationwide coverage, I do not believe it should be excluded from the record in this case.

The 2005 "Hurricane Coverage and Deductible Provision Endorsement" was not a part of the plaintiffs' Nationwide policy. The 1999 "Increased Wind/Hail Deductible" did affect the plaintiffs' deductible. Plaintiffs contend that the terms of the "Increased Wind/Hail Deductible" endorsement shed some light on Nationwide's interpretation of the terms of the plaintiffs' policy. I believe the plaintiffs are entitled to make their argument on this point at trial, and, without expressing any opinion on the merits of the argument, I am unwilling to exclude this document from the evidence plaintiffs may wish to offer in support of their argument.

Accordingly, I will **OVERRULE** the motion in limine concerning the 1991 "Increased Wind/Hail Deductible" endorsement, and I will **SUSTAIN** the motion in limine concerning the 2005 "Hurricane Coverage and Deductible Provision Endorsement." [115].

SO ORDERED this 27th day of June, 2006.

s/ L. T. Senter, Jr.

L. T. Senter, Jr.
Senior Judge